

HOUSE BILL 1426

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 4 and
Title 55, relative to the REAL ID Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

WHEREAS, in May 2005, the United States Congress enacted the REAL ID Act of 2005 (REAL ID Act) as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act (Public Law 109-13), which became effective on May 11, 2008; and

WHEREAS, a few of the more significant provisions of the REAL ID Act require states to:

- (1) Issue a driver's license or state identification card in a uniform format, containing uniform information, all as prescribed by the Department of Homeland Security;
- (2) Verify the issuance, validity, and completeness of all primary documents used to issue a driver's license, such as those showing that the bearer is a U.S. citizen or a lawful alien, a lawful refugee, or a person holding a valid visa;
- (3) Provide for secure storage of all primary documents that are used to issue a federally approved driver license or state identification card;
- (4) Provide fraudulent document recognition training to all persons engaged in issuing driver's licenses or state identification cards; and
- (5) Issue a driver's license or state identification card in a prescribed format if they do not meet the criteria provided for a federally approved license or identification card; and

WHEREAS, use of the federal minimum standards for state driver licenses and state-issued identification cards are necessary for any type of federally regulated activity for which an

identification card must be displayed, including flying in a commercial airplane, making transactions with a federally licensed bank, entering a federal building, or making application for federally supported public assistance benefits, including social security; and

WHEREAS, some of the intended privacy requirements of the REAL ID Act may actually make it more likely that a federally required driver license or state identification card, or the information about the bearer on which the license or card is based, will be stolen, sold, or otherwise used for purposes that were never intended or that are criminally related, than if the REAL ID Act had not been enacted; and

WHEREAS, these potential breaches in privacy that could result directly from compliance with the REAL ID Act may violate the right to privacy of the residents of this state; and

WHEREAS, the American Association of Motor Vehicle Administrators, the National Governors' Association, and the National Conference of State Legislatures have estimated that the cost to the states to implement the REAL ID Act will be more than eleven billion dollars (\$11,000,000,000) over five (5) years, none of which will be paid for by the federal government; and

WHEREAS, for all of these reasons, the American Association of Motor Vehicle Administrators, the National Governors' Association, and the National Conference of State Legislatures, in a letter to the majority and minority leaders of the U.S. Senate, opposed the adoption of the REAL ID Act; and

WHEREAS, the regulations that are to be adopted by the U.S. Department of Homeland Security to implement the requirements of the REAL ID Act have yet to be adopted and, in reality, will probably not become effective until the Spring of 2010, effectively giving the states one (1) year to become familiar with the implementing regulations and comply with those regulations and the requirements of the REAL ID Act; and

WHEREAS, several states, including New Hampshire and Washington have taken legislative action to oppose the implementation of the REAL ID Act; and

WHEREAS, this legislative body finds that the enactment of the REAL ID Act of 2005 into law by the United States Congress, as part of Public Law 109-13, is inimical to the security and well-being of the people of Tennessee, will cause unneeded expense and inconvenience to Tennessee citizens, and was adopted by Congress in violation of the principles of federalism contained in the 10th amendment to the U.S. Constitution; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated part:

Section 55-1-1___. The state of Tennessee shall not be required to nor shall the state participate in the implementation of the REAL ID Act of 2005. The department of safety is directed not to implement the provisions of the REAL ID Act of 2005, and the commissioner shall report to the governor any attempt by the United States Department of Homeland Security to secure the implementation of the REAL ID Act of 2005 through the operations of the department.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.